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W.A.No.2244 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.A.No.2244 of 2022 and CMP.No.17028/2022

1. The Government of Tamil Nadu
rep. by Additional Secretary,
Public (Political Pension) Department,
Secretariat, St. George Fort, Chennai-9.

2. The Collector of Chennai,
Chennai-600 001.

3. The Tahsildar of Thiruvottiyur,
Thiruvottiyur, Chennai-19.

.. Appellants

vs.

M.Palani

.. Respondent

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 18.04.2022 passed in W.P.No.12473 of 2021 by a learned Single Judge of this Court.



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For Appellants :: Mr.J.Ravindran,
Addl. Advocate General
assisted by Mrs.R.Anitha,
Spl.G.P.
For Respondent :: ...

JUDGMENT

(Judgment of the Court was pronounced by
the Hon'ble Acting Chief Justice)

This Writ Appeal is directed against the order dated 18.04.2022 passed in W.P.No.12473 of 2021 in and by which while allowing the said writ petition, the learned Single Judge of this Court has given a direction to the appellants herein to provide the State Freedom Fighters' Pension arrears to the writ petitioner/respondent herein from the date of his application on 25.09.2010 along with interest at 12% p.a. for the belated payment.

2. Mr.J.Ravindran, learned Additional Advocate General assisted by Mrs.R.Anitha, learned Special Government Pleader appearing for the appellants contended that initially, when the writ petitioner/respondent herein made a petition on 25.09.2010 seeking Freedom Fighters' Pension, he



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has not enclosed the relevant documents for sanction of the said pension i.e. any of the 11 documents listed as first class documents in Government Letter No.12273/96-20, Public (Political Pension-II) Department, dated 13.01.1997 (Annexure-I). However, after a lapse of long time, the writ petitioner has furnished some of the relevant documents, that too, on requisition from the 1st appellant. Therefore, the finding given by the learned Single Judge that the appellants while granting the freedom fighters' pension to the writ petitioner, ought to have granted the same from the date of submitting the application, is unfair and unjustifiable. Adding further, it is contended that though the 1st appellant found no ground or justification to grant freedom fighters' pension to the writ petitioner, only on sympathetic and compassionate ground, accepting the writ petitioner as a freedom fighter in spite of the fact that he has not complied with many of the vital conditions mentioned in Letter No.10886/P.P.3(1)/2013-2 dated 05.04.2013, has come forward to grant the freedom fighters' pension from the date of issuance of the Order No.14126 dated 29.04.2016. Therefore, a direction cannot be given by the learned Single Judge that he is entitled to get the pension from



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the date of application. Finally, it is also contended that if the order of the learned Single Judge is confirmed by this Court, it would lead to open a pandora's box, as a result, the appellants would be put to great financial constraints. Therefore, when the writ petitioner has already been accepted as a freedom fighter and thereupon, he was also granted State Freedom Fighters' Pension, the impugned order has to go, he pleaded.

3. We are unable to accept anyone of the arguments advanced by the learned Additional Advocate General appearing for the appellants. At the outset, when the respondent herein/writ petitioner has approached the appellants seeking the benefit of freedom fighters' pension on making an application dated 25.09.2010, a perusal of the records would reveal that his application itself was not even considered for quite a long time. Thereafter, the Additional Secretary to Government, Public (Political Pension-3) Department, Secretariat, Chennai-9, the 1st respondent herein, issued a Proceedings vide letter No.35312/PP.3/2010-1 dated 12.10.2010 directing the District Collector, Thiruvallur District, Thiruvallur, to get an explanation



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report from the Assistant Commissioner, Civil Supplies and Consumer Protection Department, Thiruvotriyur Zone, to the effect that on what basis the age correction was made in respect of the writ petitioner alone as '87' in the Family Card and also to get an explanation report from the Tahsildar, Madavaram in respect of the age of the writ petitioner for consideration of his case for granting Freedom Fighters' Pension. In response to the same, the District Collector, Thiruvallur, the 2nd respondent herein also in his Letter Na.Ka.35794/2010/D2 dated 25.11.2011 requested the Assistant Commissioner of Civil Supplies and Consumer Protection Department, Thiruvotriyur Zone, Chennai-19, to clarify on what basis the age of the writ petitioner alone was corrected because the Government Order in G.O.Ms.No.2015, Public (Political Pension II) Department, dated 15.11.1988 states that a person reaching the age of 70 and above as on 15.10.1988 alone is entitled to take out an application seeking freedom fighters' pension. Therefore, it is pleaded that the age of the writ petitioner has been corrected to suit his age qualification as though on the date of making the application, he reached the age of 70 years so as to fulfill one of



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the conditions mentioned in the G.O.Ms.No.2015. The Assistant Commissioner, Civil Supplies and Consumer Protection Department, Thiruvotriyur Zone, Chennai, has also in his letter dated 19.01.2012 informed the District Collector, Thiruvallur District that the age of the writ petitioner M.Palani alone has been corrected in the Family Card by reviewing the Doctor's Certificate issued by him. Thereafter, the Additional Secretary to Government, Public (Political Pension-3) Department, Secretariat, Chennai-9 in her letter No.10886/P.P.-3(1)/2013-1, dated 05.04.2013 addressed to the District Collector, Thiruvallur District indicated that the age certificate of the petitioner is not an acceptable one since the petitioner's claim can be considered only on submission of any of the 11 documents listed as first class documents in Government Letter No.12273/96-20, Public (Political Pension-II) Department, dated 13.01.1997 (Annexure-I) in original. With this recommendation, the original certificate of INA issued by (Con) Lakshmi Segal dated 13.09.2007 received from the writ petitioner has been returned to the District Collector. The said letter also says that the District Collector to get fresh application



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from the writ petitioner and thereafter, the petitioner made a representation dated 27.11.2014 to the Hon'ble Chief Minister Cell, since he was not even further communicated. Finally, the petitioner was admitted and accepted as a freedom fighter by granting State Freedom Fighters' Pension, by an order dated 29.04.2016 stating that he is entitled to get the benefit of the said pension only from the date of issuance of the order and the petition addressed to the 2nd appellant herein seeking pension arrears from the date of application was rejected by an order dated 25.03.2021 of the Joint Secretary to Government, Public (Political Pension-3) Department, Secretariat, Chennai-9. Challenging the same, the writ petitioner has approached this Court by filing W.P.No.12473/2021 seeking pension arrears from the date of his application i.e. 25.09.2010.

4. In the above background, learned Single Judge after considering the claim and counter claim made by both the parties came to the conclusion that the application in this case has been admittedly received by the authority along with full particulars as required, on 21.11.2014 and the



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same also came to be disposed of on 29.04.2016 sanctioning pension.

Therefore, the writ petitioner cannot be held responsible for the delay in disposing of the application. This apart, the learned Single Judge further proceeded to hold that the original file which was circulated by Mr.D.Ravichander, learned Special Government Pleader before the Court shows that the original date of submission of the application is 25.09.2010 and it has been kept pending for want of requisite particulars from the side of the writ petitioner. Hence, the learned Single Judge came to the conclusion that once requisite particulars have been duly furnished by the writ petitioner and the application was also found to be acceptable, then the pension once sanctioned against the petitioner, must run from the first date of submission of the application itself, namely, from 25.09.2010.

5. Before parting with this case, it is relevant to mention here that when the writ petitioner has been admitted as a freedom fighter by an order No.14126 dated 29.04.2016, the question whether any concession can be given to the appellants to revise the benefit of freedom fighters' pension



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granted to the writ petitioner from the date of the issuance of the order, has to be held in negative. The reason being that once the writ petitioner has made an application on 25.09.2010 seeking the benefit of State Freedom Fighters Pension, the pension has to be given only from the date he made an application not from the date of issuance of the order. Besides when the application was also made on 25.09.2010, having not rejected the said application, keeping the same pending and after the passage of long time, some particulars were called for and on furnishing such particulars, when the 1st respondent has issued the order, he cannot come to the conclusion that the writ petitioner is entitled to get the pension only from the date of issuance of the order. Therefore, we do not find any error or infirmity in the order of the learned Single Judge.

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6. In the result, affirming the findings and conclusions given by the learned Single Judge, the Writ Appeal fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

(T.R.,A.C.J.) (D.K.K, J.)

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